In re : Ch. 11 :	ANTHONY RIVARA,	:	Case No. 8-14-72784-reg
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: : Ch. 11	ANTHONY DIVADA	:	Cosa No. 9 14 72794 mag
	In re	:	Ch. 11

## CREDITOR FEDERAL INSURANCE COMPANY'S OBJECTION TO DEBTOR'S MOTION FOR AN ORDER APPROVING SALE PROCEDURES

Creditor Federal Insurance Company ("<u>Federal</u>"), by and through its undersigned counsel, by way of objection to the Debtor's Motion for Order Approving Disclosure Statement and Sale Procedures (the "<u>Motion</u>"), hereby states:

- 1. On June 16, 2014, the Debtor filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code").
- 2. The Debtor is the owner of a home located at 249 Cleft Road, Mill Neck, New York (the "Property").
- 3. According to the Debtor, the Property is a gilded age estate covering 25 acres overlooking Oyster Bay. The house was originally built by B.F. Goodrich and was a long-time Vanderbilt summer home. [See Docket No. 37.]
- 4. Federal is the holder of the mortgage against the Property in the original principal amount of \$18 million. The total amount owed by the Debtor to Federal is in excess of \$147 million.
- 5. On November 10, 2014, the Debtor filed the Motion seeking both the approval of proposed auction sale procedures (the "Sale Procedures") and the Debtor's

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disclosure statement. [Docket No. 47]. On December 5, 2014, the Debtor filed a letter reflecting that the disclosure statement hearing scheduled for December 17, 2014 has been adjourned until January 26, 2015, but that the Sale Procedures hearing remains scheduled for December 17, 2014. [Docket No. 53].

- 6. The Sale Procedures provide that the Bankruptcy Court has approved the Debtor's application to retain a real estate broker who "shall, among other things, market the Property and make recommendations to the Debtor as to who shall be a qualified bidder and who shall be the winning bidder at the sale of the Property." [See Docket No. 47].
- 7. On October 2, 2014, the Debtor filed an application to retain Daniel Gale Sotheby's International Realty ("DGSIR") as his real estate broker. [Docket No. 37].
- 8. However, on October 15, 2014, the Debtor filed a letter withdrawing his application to employ DGSIR as the Debtor's real estate broker. [Docket No. 42].
- 9. The Debtor has not filed a subsequent application requesting approval of the retention of a real estate broker.
- 10. The Sale Procedures cannot be approved because they provide for the Debtor's real estate broker to, *inter alia*, market the Property, but the Debtor has not yet retained a real estate broker and there is no pending application in which the Debtor seeks approval to retain a real estate broker.
- 11. Since a real estate broker has not been retained, the Property has not been professionally marketed during this chapter 11 case.
- 12. The Property should not be sold unless and until the Property and the proposed auction sale are professionally and appropriately marketed to make certain that the sale generates the greatest possible return for creditors.

13. Federal reserves the right to object to: (a) the Debtor's proposed plan; (b) the Debtor's proposed disclosure statement; and (c) the approval of the proposed sale of the Property under Section 363 of the Bankruptcy Code.

WHEREFORE, Federal requests that the Court enter an order denying the Debtor's Sale Procedures Motion and granting Federal such other and further relief as the Court deems just and equitable.

Dated: December 10, 2014

## SCHNADER HARRISON SEGAL & LEWIS LLP

By: /s/ Cynthia A. Murray
Cynthia A. Murray
140 Broadway, Suite 3100
New York, New York, 10005
E-mail: cmurray@schnader.com

Phone No.: (212) 973-8077 Fax No.: (212) 972-8798

Richard A. Barkasy 1600 Market Street, Suite 3600 Philadelphia PA 19103-7213 E-mail: rbarkasy@schnader.com Phone No.: (215) 751-2000

Fax No.: (215) 751-2205

Attorneys for Creditor Federal Insurance Company

	ED STATES BANKRUPTCY COURT ERN DISTRICT OF NEW YORK	[`	
In re	ANTHONY RIVARA,  Debtor.	x : : : :	Ch. 11 Case No. 8-14-72784-reg
		X	

## **CERTIFICATE OF SERVICE**

CYNTHIA A. MURRAY, an attorney duly admitted to practice in this State, affirms under the penalties of perjury as follows:

I served a true and correct copy of Federal Insurance Company's Objection To

Debtor's Motion For An Order Approving Sale Procedures via U.S. First Class mail this 10<sup>th</sup> day

of December, 2014 upon:

Mark A. Frankel
BACKENROTH FRANKEL & KRINSKY LLP
800 Third Avenue
11th Floor
New York, New York 10022
Email: mfrankel@bfklaw.com
Attorneys for Debtor Anthony Rivara

Kevin J. Larner
RIKER DANZIG SCHERER HYLAND & PERRETTI LLP
Headquarters Plaza
One Speedwell Avenue
Morristown, NJ 07962-1981
Email: klarner@riker.com

Attorneys for Creditor Wilmington Trust, National Association, Not In Its Individual Capacity But Solely As Trustee Under Greenwich Investors XXXVII Pass-Through Trust Agreement Dated As Of July 26, 2011 Richard J. McCord CERTILMAN BALIN ADLER & HYMAN, LLP 90 Merrick Avenue East Meadow, New York 11554

Email: <a href="mailto:rmccord@certilmanbalin.com">rmccord@certilmanbalin.com</a>
Attorneys for Creditor Joseph V. Curcio

Enid Nagler Stuart Assistant Attorney General ATTORNEY GENERAL OF THE STATE OF NEW YORK 120 Broadway, 24<sup>th</sup> Floor New York, New York 10271

Email: enid.stuart@ag.ny.gov

Attorneys for Creditor New York State Department of Taxation and

*Finance* 

Stan Yang
UNITED STATES TRUSTEE
Long Island Federal Courthouse
560 Fedearl Plaza, Room 560
Central Islip, New York 11722-4437

Email: <u>Stan.Y.Yang@usdoj.gov</u>

U.S. Trustee

Dated: New York, New York December 10, 2014

> /s/ Cynthia A. Murray CYNTHIA A. MURRAY